

Date: 3-4-99

✓ DUK

12-4-98

Office Action Summary

Application No.

09/017,959

Applicant(s)

Bernhardt

Examiner

William M. Pierce

Group Art Unit

P3711

☒ Responsive to communication(s) filed on Nov 16, 1998☒ This action is **FINAL**.☐ Since this application is in condition for allowance except for formal matters, prosecution to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

A shortened statutory period for response to this action is set to expire 3 month(s), or thirty days, whichever is longer, from the mailing date of this communication. Failure to respond within the period for response will cause the application to become abandoned. (35 U.S.C. § 133). Extensions of time may be obtained under the provisions of 37 CFR 1.136(a).

Disposition of Claims☒ Claim(s) 1-16 is/are pending in the application.

Of the above, claim(s) _____ is/are withdrawn from consideration.

☐ Claim(s) _____ is/are allowed.☒ Claim(s) 1-16 is/are rejected.☐ Claim(s) _____ is/are objected to.☐ Claims _____ are subject to restriction or election requirement.**Application Papers**☐ See the attached Notice of Draftsperson's Patent Drawing Review, PTO-948.☐ The drawing(s) filed on _____ is/are objected to by the Examiner.☐ The proposed drawing correction, filed on _____ is ☐ approved ☐ disapproved.☐ The specification is objected to by the Examiner.☐ The oath or declaration is objected to by the Examiner.**Priority under 35 U.S.C. § 119**☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).☐ All ☐ Some* ☐ None of the CERTIFIED copies of the priority documents have been☐ received.☐ received in Application No. (Series Code/Serial Number) _____.☐ received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

*Certified copies not received: _____

☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).**Attachment(s)**☐ Notice of References Cited, PTO-892☐ Information Disclosure Statement(s), PTO-1449, Paper No(s). _____☐ Interview Summary, PTO-413☐ Notice of Draftsperson's Patent Drawing Review, PTO-948☐ Notice of Informal Patent Application, PTO-152


WILLIAM M. PIERCE
PRIMARY EXAMINER

— SEE OFFICE ACTION ON THE FOLLOWING PAGES —

Art Unit:

1. Claims 1-16 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention for the reasons set forth in the previous office action.

2. Claims 1-16 are rejected under 35 U.S.C. 102(b) as being anticipated by Steven for the reasons set forth in the previous office action.

Specifically to the new limitation added to claims 1 and 6, such fail to positively distinguish over Stevens. Stevens clearly shows "one or more projections" in fig. 1. The subsequent phrase "for contacting a bowling ball" is considered a mere statement of intended use and carries little weight to distinguish over the structure shown in the applied art. Applicant further added that the projections have a "desired configuration such that when force is exerted by [a] bowler on [a] ball, the projections flatten..." While it can be argued that one is not certain of the material of the projections in Stevens, it is clear that they are not rigid since they are intended to be used on brushing teeth which would require some degree of softness. It follows that placing force on the projections of any type of brush by an object (such as a bowling ball) would force them to flatten in compressed and/or bent over fashion.


3. Applicant's arguments filed 11/16/98 have been fully considered but they are not persuasive.

Art Unit:

4. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

5. Any inquiry concerning this communication should be directed to William Pierce at E-mail address bill.pierce@USPTO.gov or at telephone number (703) 308-3551.


WILLIAM M. PIERCE
PRIMARY EXAMINER